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STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Written statement submitted by Human Rights Advocates, Inc., a non-governmental organization on the Roster

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[11 March 1997]

GE.97-11031 (E)

1. It has now been more than 30 years since the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights were adopted by the General Assembly, and over 20 years since both Covenants entered into force. Nonetheless, many States have declined to sign or ratify one or both of these Covenants despite professing adherence to the human rights described in the Covenants.

2. The International Covenant on Civil and Political Rights in particular, acknowledges and protects virtually all of the human rights set forth in the Universal Declaration of Human Rights. It also protects certain specific rights, such as the right to be free of race or sex discrimination and the right to be free from torture, more comprehensively protected in other international covenants.

3. The International Covenant on Civil and Political Rights, therefore, represents the minimum standard of human rights protections universally acknowledged by the international community. Moreover, the Charter of the United Nations requires all Members to "take joint and several action" to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion". We are hard pressed to understand how any State that has pledged itself to the Charter of the United Nations and its resolutions, including the Universal Declaration, could refuse to sign and ratify the International Covenant on Civil and Political Rights and still remain loyal to its obligations under the Charter. The only reason not to sign and ratify the Covenant is to avoid the mechanism established by the Covenant, namely the Human Rights Committee, to enforce those rights in particular instances in particular States.

4. Several notable examples of States that have obligated themselves to protect and promote human rights but have refused to sign or ratify the Covenant are the People's Republic of China and Indonesia. That these States have failed to sign and ratify the Covenant is consistent with the fact that these States have persistently violated the human rights of their people. In particular, the People's Republic of China has violated the human rights of the Tibetan people; Indonesia has violated the rights of the people of East Timor.

5. The violations of the human rights of the Tibetan people are well documented and presented to the Commission and its special rapporteurs (e.g. extrajudicial, summary or arbitrary executions (E/CN.4/1996/4)) and working groups (e.g. arbitrary detention (E/CN.4/1996/40)) in past and present interventions and communications, and noted in three separate General Assembly resolutions (1353 (XIV) (1959); 1723 (XVI) (1961); 2079 (XX) (1965)). They include violations of the right to freedom of opinion and expression, the right to be free of race and sex discrimination, the right to freedom from torture and arbitrary execution, and the right to freedom of religion.

6. Indonesia's denial of the right of self-determination of the East Timorese people is also well documented. Indonesia's invasion of East Timor has been condemned by the Security Council. More recently, the 1991 attack by Indonesian armed forces on a peaceful demonstration in Dili resulted in hundreds of deaths and hundreds of disappearances (see e.g. E/CN.4/1997/34, paras. 190-195); disappearances in East Timor continue to this day (see ibid.).

7. Unfortunately, the failure of States such as the People's Republic of China and Indonesia to sign and ratify the International Covenant on Civil and Political Rights allows them to avoid the enforcement mechanism represented by the Human Rights Committee, namely, effective international monitoring of the human rights situation in Tibet and East Timor.

8. We believe it is incumbent upon those States that have signed and ratified the International Covenant on Civil and Political Rights to take all available measures to persuade States such as the People's Republic of China and Indonesia to sign and ratify the Covenant. States are obligated under the Charter of the United Nations, and States parties are obligated under the Covenant, to promote and protect fundamental human rights. We believe that it is inconsistent with those obligations to remain silent or inactive while other States violate these rights with impunity.

9. We also call upon all States to sign and ratify the two Optional Protocols to the International Covenant on Civil and Political Rights. This should include States, such as the United States, that have ratified the Covenant but have not ratified the two Optional Protocols. The first Optional Protocol would allow individuals to bring communications to the Committee regarding alleged violations of the Covenant. Just as the Commission and other United Nations bodies have been aided by the fact-finding and oversight functions provided by non-governmental organizations, the ability of the Committee to have access to information received through individual communications that otherwise might have escaped the attention of States parties could only aid its deliberations. We see no reason why a State that has obligated itself to promote human rights and has bound itself accordingly to the International Covenant on Civil and Political Rights should object to the Committee receiving information from all reliable sources.

10. The Second Optional Protocol provides for the abolition of the death penalty. The right to life is the most fundamental of all human rights. Moreover, while the International Covenant on Civil and Political Rights prohibits arbitrary executions, it is impossible to avoid executions that are arbitrary, except by prohibiting executions altogether. We therefore call upon all States, particularly those States, such as the United States, that have ratified the International Covenant on Civil and Political Rights to also ratify the Second Optional Protocol.

11. We also call upon all States to sign and ratify the International Covenant on Economic, Social and Cultural Rights. It is the necessary complement to the International Covenant on Civil and Political Rights. First, the International Covenant on Economic, Social and Cultural Rights makes explicit many rights implicit in the International Covenent on Civil and Political Rights, for example by detailing specific rights regarding non-discrimination against minorities in employment, education, culture and religion. Second, the International Covenant on Economic, Social and Cultural Rights is premised on the recognition that the full achievement of human rights depends on full access to the enjoyment of all aspects of human life. Political and civil rights may mean little if meaningful access to the economic and cultural life of the nation is denied individuals or peoples. Indeed, both Covenants begin with the recognition that a people's right to self-determination - to freely determine for themselves their political status and to freely pursue their economic, social and cultural development - is a necessary prerequisites to the full enjoyment of all human rights. The

International Covenant on Economic, Social and Cultural Rights, therefore, is a necessary half of the whole range of human rights that the two Covenants together are designed to protect.

12. We call upon all States, such as the People's Republic of China, Indonesia and the United States of America, to ratify the International Covenant on Economic, Social and Cultural Rights. Tibet again provides one stark example of why the International Covenant on Economic, Social and Cultural Rights should be ratified. In Tibet, the persistent and systematic denial of human rights extends to the economic, social and cultural rights of Tibetans. Tibetans are discriminated against in employment, education and housing, and in some instances are even denied pay for work they are compelled to do. And according to Tibet Information Network, Human Rights Watch/Asia and official statements of the Government of the People's Republic of China, the official attacks on the practice of Tibetan Buddhism have increased in intensity and brutality in recent years. As an example, little could more callously violate a people's social and cultural rights than the Government's interference in the choice of one of Tibet's religious leaders: the eleventh Panchen Lama, a 7-year-old boy whom the Government, through its Permanent Representative to the United Nations, acknowledged on 1 June 1996, is being held in detention.

13. The situations in Tibet and East Timor cry out for the international community to demand that all States sign and ratify the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. While States such as the United States can cite a better record on human rights, they are not immune to human rights violations within their borders. Perhaps more importantly, though, the failure of States such as the United States to ratify the International Covenant on Economic, Social and Cultural Rights limits their ability to speak credibly on human rights issues and to effectively carry out their obligations to promote universal respect for and observance of human rights in other States. This is a necessary step to improving the human rights situation in all places like Tibet and East Timor, and a necessary part of the obligation of the international community to promote respect for and protect the human rights of all peoples.

14. The Commission has been instrumental in achieving the very broad support for and ratification of the two International Covenants that exists today. Unfortunately, the unwillingness of certain States to sign and ratify the Covenants remains an obstacle to the full enjoyment of human rights for all peoples. We therefore call upon the Commission to take all available steps - including those steps outlined by the Secretary-General (see E/CN.4/1997/72) - to bring about the ratification of the two International Covenants by those States that have so far failed to do so, and in particular by those States who continue to abuse the human rights of their people.